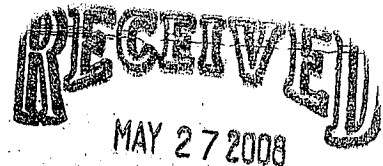


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DEPT OF ENVIRONMENT AND CONSERVATION
OFFICE OF GENERAL COUNSEL
Fax [865] 483-0072

May 22, 2008

Appeal of Enforcement Order
TDEC-OGC
20th Floor L&C Tower
401 Church Street
Nashville, TN 37243-1548

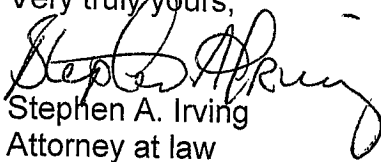
Re: Director's Order and Assessment dated April 24th, 2008, styled "In the Matter of Land Resources Watts Bar, LLC and R&R Excavating Company, LLC, Division of Water Pollution Control, Case Number WPC08-0075

To All Concerned:

Enclosed please find a Petition to Secure Review of Director's Order and Assessment and Motion for Hearing in the captioned matter. This appeal and request for Review is sent on behalf of R&R Excavating Company, LLC. I would appreciate your filing these documents and entering me as attorney of record in this matter. Please feel free to contact me at any time with regard to this matter.

I appreciate your assistance and look forward to working with you to amicably resolve this matter.

Very truly yours,


Stephen A. Irving
Attorney at law

TO: STATE OF TENNESSEE DEPARTMENT OF ENVIRONMENT AND
CONSERVATION c/o Office of General Counsel, Appeal of Enforcement
Order, TDEC-OGC, 20th Floor L&C Tower, 401 Church Street, Nashville,
TN 37243-1548

RE: Director's Order and Assessment dated April 24th, 2008, styled "In the
Matter of Land Resources Watts Bar, LLC and R&R Excavating
Company, LLC, Division of Water Pollution Control, Case Number
WPC08-0075

DATE: MAY 22, 2008

**Petition to Secure Review of Order and Assessment and For A Hearing Before
the Water Quality Control Board in Case #WPC08-0075**

Comes now your Petitioner, R&R Excavating Company, LLC, by and through its attorney, Stephen A. Irving, and would appeal an adverse decision entered in the captioned case and seek an administrative hearing before the Tennessee Water Quality Control Board on this Petition for Review, and in support thereof would show as follows:

1. On or about the 24th day of April, 2008, The State of Tennessee Department of Environment and Conservation entered a Director's Order And Assessment against your Petitioner, R&R Excavating Company, LLC, as well as against a company known as Land Resources Watts Bar, LLC. "Land Resources" is the owner and developer of a project known as the "Docks at Caney Creek." "R&R" provided contractor services at the Caney Creek project, subject to the guidance and governance of "Land Resources" architects, engineers and personnel.
2. All construction activities performed by R&R were performed under the direct supervision and guidance of Land Resources. Additionally, Land Resources hired numerous sub-contractors to perform work or services on the project; these sub-contractors operated at the direction of Land Resources and not R&R. R&R had no control over the construction services of the sub-contractors hired by Land Resources.

3. The wrongful acts stated in Paragraphs XIII, XIV, XVII, XX, XXI, XXIV, and XXV through XXIX were occasioned and caused by the acts or omissions of Land Resources and/or its subcontractors and were not in any way the fault of R&R.

4. Land Resources experienced cash flow problems throughout the project and as a result thereof prevented R&R from undertaking necessary remedial measures. This includes, but is not limited to putting necessary top soil at sensitive locations. Further, Land Resources unilaterally changed design plans and removed a planned sediment pond from their master plan and would not allow R&R to install same.

5. In August of 2006, R&R submitted a Notice of Termination to the Division, showing that construction activities were continuing with other sub-contractors and Land Resources would not pay R&R for necessary remedial actions. In May of 2008, R&R submitted an additional Notice of Termination to the Division, further advising that R&R was not the operator of the facility/site. At all times pertinent to these NOT's, Land Resources had agreed to assume stabilization of the site and to meet the various remediation requirements imposed by the Division. Land Resources hired subcontractors to perform these services under the direction of Land Resource agents or personnel.

6. There were three major reasons R&R withdrew from the project and ceased construction activities: [1.] Land Resources was not attentive to the remediation plan and would not fund such activities or allow R&R to perform same; R&R was duly concerned about the water quality control issues; [2] Land Resources did not pay R&R for services performed on site; [3] Land Resources used outside subcontractors to perform work on site, in a manner R&R felt was substandard and not in compliance..

7. Land Resources admitted responsibility for violations in a previous hearing on this matter and paid a fine therefore.

8. R&R did perform certain remediation activities as requested by the Department. Their attempt to perform other activities were stymied by the actions of Land Resource personnel who had supervisory authority over R&R. Furthermore, the owner/developer, Land Resources, could not timely provide capital necessary for equipment or supply purchases to R&R, and R&R would not engage in shoddy or substandard construction activities, so Land Resources employed outside subcontractors to perform these functions. R&R had no input or control on this situation. R&R has totally severed its business relationship with Land Resources and is engaged in litigation to recover substantial monies owed to R&R for services to Land Resources.

9. The violations complained of the the Director's Order and Assessment were either caused or occasioned by the actions of Land Resources or its subcontractors and not by R&R.

10. Additional detail and exhibits in support of R&R's position that it should not be liable or assessed in this matter will be presented at the administrative hearing on this case.

Wherefore, your Petitioner, R&R Excavating Company, LLC prays:

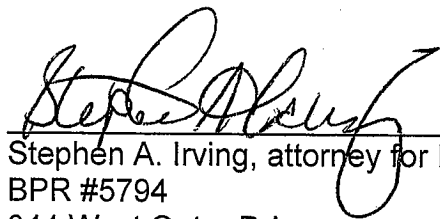
1. That this Request for Review be accepted as an appeal of the Director's Order and Assessment and that a hearing be held on this matter.

2. That at said hearing, any assessments against R&R be set aside and R&R be absolved of any liability for any noted violations.

3. That all penalties, assessments and requirements levied against R&R be tolled and held in abeyance pending said hearing.

4. For such other, further and general relief as may be appropriate under the circumstances.

Respectfully submitted this the 22nd day of May, 2008

A handwritten signature in cursive script, appearing to read "Stephen A. Irving", written over a horizontal line.

Stephen A. Irving, attorney for R&R Excavating Company, LLC
BPR #5794
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Oak Ridge, TN 37830
[865] 966-4904